ESTTA Tracking number: **ESTTA475833**

Filing date: **06/01/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054139
Party	Defendant Stiletto Brands, LLC
Correspondence Address	JASON MUELLER ADAMS AND REESE LLP 424 CHURCH ST, STE 2800 NASHVILLE, TN 37219 UNITED STATES jason.mueller@arlaw.com, haverly.macarthur@arlaw.com
Submission	Request to Withdraw as Attorney
Filer's Name	Jason P. Mueller
Filer's e-mail	jason.mueller@arlaw.com, tracey.langston@arlaw.com
Signature	/Jason P. Mueller/
Date	06/01/2012
Attachments	Motion to Withdraw as Counsel of Record Phenix Brands v. Steletto Brands.pdf (9 pages)(366707 bytes) Exhibit A-Lt ray Wooldridge re Phenix Brands Motion to Withdraw w enclosures.pdf (17 pages)(749211 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 3712427
Issued on November 17, 2009

PHENIX BRANDS, LLC

Petitioner,

v.

STILETTO BRANDS, LLC,

Respondent.

Cancellation No. 92054139

MOTION TO WITHDRAW AS COUNSEL OF RECORD

Pursuant to 37 CFR §10.40, come Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP ("Withdrawing Attorneys"), attorneys of record for defendant, Stiletto Brands, L.L.C., who respectfully request that they be allowed to withdraw as counsel of record for Stiletto Brands, L.L.C. in the above-captioned proceeding.

Withdrawing Attorneys wish to terminate representation in this matter in accordance with 37 CFR 10.40 (c)(1)(vi).

Additionally, Withdrawing Attorneys have notified Stiletto Brands, L.L.C. in writing of the withdrawal and of the status of the case. *See* attached Exhibit "A." Withdrawing Attorneys have delivered and mailed this written notice to Stiletto Brands, L.L.C. The present street address and mailing address of Stiletto Brands, L.L.C. is 1836 Beach Boulevard Biloxi, MS 39531.

WHEREFORE, Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP pray that the Trademark Trial and Appeal Board grant their Motion to

Withdraw as Counsel of Record, thereby permitting them to withdraw as counsel of record for defendant, Stiletto Brands, L.L.C.

Respectfully submitted:

ADAMS AND REESE LLP

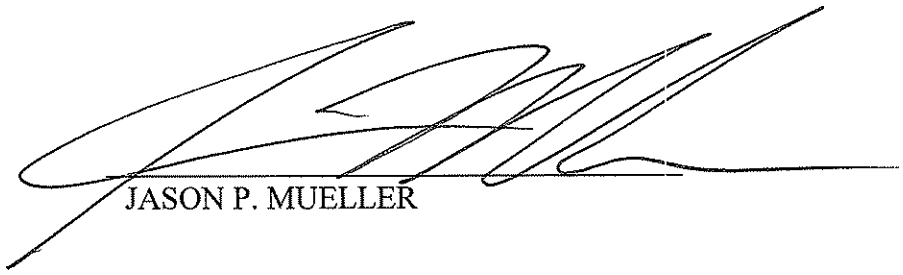
Date: 6/1/12

Jason P. Mueller
Haverly MacArthur
Adams and Reese LLP
424 Church Street, Suite 2800
Nashville, Tennessee 37219
(615) 259-1450 (Telephone)
(615) 259-1470 (Facsimile)
haverly.macarthur@arlaw.com
jason.mueller@arlaw.com

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP have complied with paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16; that a copy of the written communication required by paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts is attached to this motion; and that a copy of the Motion to Withdraw as Counsel of Record has been provided to a representative of Stiletto Brands, L.L.C. and to counsel for Phenix Brands, LLC. by United States mail, postage prepaid and properly address, by electronic mail, by facsimile and/or by certified mail, return receipt requested on this 1st day of June, 2012. Address for counsel for Phenix Brands is as follows:

Debra Deardourff Faulk
GrayRobinson, P.A.
201 North Franklin Street, Suite 2200
Tampa, Florida 33601



JASON P. MUELLER

TITLE II

RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS (EXCEPT FOR FAMILY COURTS AND JUVENILE COURTS)

Includes Amendments through November 21, 2011
(Amendments effective January 1, 2012)

Chapter 9 Procedure

Rule 9.13 Withdrawal as Counsel of Record

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record:

(a) The withdrawing attorney who does not have written consent from the client shall make a good-faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney shall deliver or mail this notice to the client before filing any motion to withdraw.

(b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw shall be submitted to the judge presiding over that section or division.

(c) Any motion to withdraw shall include the following information:

(1) The motion shall state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney shall also furnish this information to the clerk of court.

(2) If a scheduling order is in effect, a copy of it shall be attached to the motion.

(3) The motion shall state whether any conference, hearing, or trial is scheduled and, if so, its date.

(4) The motion shall include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) shall be attached to the motion.

(d) The court may allow an attorney to withdraw by ex parte motion if:

(1) The attorney has been terminated by the client; or

(2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or

(3) No hearing or trial is scheduled; or

(4) The case has been concluded.

(e) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client shall be served with a copy of the motion and rule to show cause why it should not be granted.

(f) If counsel's withdrawal would delay a scheduled hearing or trial, the court will not allow the withdrawal unless exceptional circumstances exist.

(g) Paragraphs (a) through (f) do not apply to an ex parte motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

(1) The court may grant the motion without a hearing. Movers shall furnish the court with a proposed order.

(2) Substitution of counsel will not, by itself, be good cause to alter or delay any scheduled matters or deadlines.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004; amended November 20, 2009, effective January 1, 2010.

Comment

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

Louisiana Rules of Professional Conduct

(with amendments through September 30, 2011)

Published by the
Louisiana Attorney Disciplinary Board
2800 Veterans Memorial Boulevard
Suite 310
Metairie, Louisiana 70002
(504) 834-1488 or (800) 489-8411
(last modified October 12, 2011)

RULE 1.16. DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance

payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

RULE 1.17. [RESERVED]

RULE 1.18. DUTIES TO PROSPECTIVE CLIENT

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

ADAMS AND REESE LLP

Attorneys at Law
Baton Rouge
Birmingham
Houston
Jackson
Memphis
Mobile
Nashville
New Orleans
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Jason P. Mueller
(504) 585-0490
Houston (713) 652-5151
E-Fax (504) 586-6603
jason.mueller@arlaw.com

June 1, 2012

Certified Mail
Return Receipt Requested

Via Email: rw@rwdev.com

Mr. Ray Wooldridge
RW Developoment
1836 Beach Boulevard
Biloxi, MS 39531

Re: Phenix Brands, LLC v.
Stiletto Brands, LLC
Trademark Trial and Appeal Board
Cancellation No. 92054139
Our File Ref: 16876-1

Dear Mr. Wooldridge:

We are withdrawing from our representation of Stiletto Brands, LLC in the above-identified matter. Enclosed is a copy of the Motion to Withdraw as Counsel of Record that we will be filing this week.

We are enclosing a copy of the status page for this matter from the United States Patent and Trademark Office for your review. Also, enclosed is a duplicate copy of the Notice and Trial Dates Sent; Answer Due dated June 21, 2011 providing a guideline of dates for this matter.

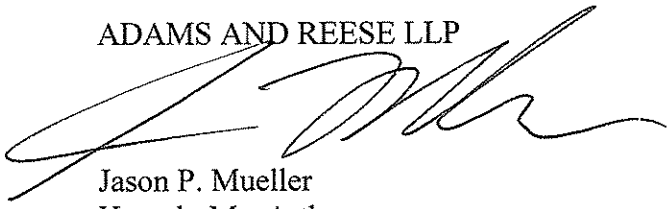
According to the last teleconference with opposing counsel, Debra Deardourff Faulk and Ray Edwards on March 8, 2012, we were awaiting a settlement offer from Mr. Edwards. No further communication has been received to date.

You retain ownership of all documents generated during the course of the engagement and which remain in our possession. We will be sending, via overnight mail, all such documents. Please review the file and confirm receipt by signing and returning a copy of this letter to us.

If you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

ADAMS AND REESE LLP



Jason P. Mueller
Haverly MacArthur

Receipt of complete files acknowledged by:

_____
Ray Wooldridge

Dated: _____

JPM:twl
Enc.

Search:

Cancellation

Number: 92054139 **Filing Date:** 06/21/2011
Status: Pending **Status Date:** 06/21/2011
Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Stiletto Brands, LLC
Correspondence: JASON MUELLER
ADAMS AND REESE LLP
424 CHURCH ST, STE 2800
NASHVILLE, TN 37219
UNITED STATES
jason.mueller@arlaw.com, haverly.macarthur@arlaw.com
Serial #: 77064255 Application File **Registration #:** 3712427
Application Status: Cancellation Pending
Mark: STILETTO

Plaintiff

Name: Phenix Brands, LLC
Correspondence: DEBRA DEARDOURFF FAULK
GRAY ROBINSON PA
201 NORTH FRANKLIN STREET SUITE 2200
TAMPA, FL 33601
UNITED STATES
ptotpa@gray-robinson.com
Serial #: 85103922 Application File
Application Status: Final Refusal - Mailed
Mark: SAMOGON
Serial #: 85069427 Application File
Application Status: Report Completed Suspension Check - Case Still Suspended
Mark: SHPILKA
Serial #: 85041352 Application File
Application Status: Notice of Allowance - Issued
Mark: MIG FUEL

Prosecution History

#	Date	History Text	Due Date
4	08/01/2011	ANSWER	
3	06/21/2011	PENDING, INSTITUTED	
2	06/21/2011	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	07/31/2011
1	06/21/2011	FILED AND FEE	

Search:

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: June 21, 2011

Cancellation No. 92054139
Registration No. 3712427

STILETTO BRANDS LLC
SUITE 2000, 365 CANAL STREET
NEW ORLEANS, LA 70130
UNITED STATES

Phenix Brands, LLC

v.

Stiletto Brands, LLC

DEBRA DEARDOURFF FAULK
GRAY ROBINSON PA
201 NORTH FRANKLIN STREET, SUITE 2200
TAMPA, FL 33601
UNITED STATES

Tyrone Craven, Paralegal Specialist:

A petition to cancel the above-identified registration has been filed. A service copy of the petition for cancellation was forwarded to registrant (defendant) by the petitioner (plaintiff). An electronic version of the petition for cancellation is viewable in the electronic file for this proceeding via the Board's TTABVUE system: **http://ttabvue.uspto.gov/ttabvue/**.

The Board acknowledges that petitioner included proof that it forwarded a service copy of its petition to registrant. However, the proof of service indicates that petitioner sent that service copy to an attorney for registrant, rather than to registrant. As provided in amended Trademark Rule 2.111(a), a petitioner must include "proof of service on the owner of record for the registration, or the owner's domestic representative of record, at the correspondence address of record." The rule does not direct a petitioner to serve an attorney, though an attorney should be served if the attorney is the registrant's designated domestic representative. The reference in the rule to correspondence address is a reference to the address for the owner of the registration or the domestic representative, if one has been appointed. While petitioner's proof of service is a reasonable attempt to effect service, petitioner is directed to forward an additional copy of its petition to the owner of record for the registration, at its address of record. In addition, any future filing must be served directly on the owner of the

registration. If an attorney files an answer or other paper for registrant, thereby entering an appearance, petitioner may thereafter forward service copies to that attorney rather than registrant. **Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations ("Trademark Rules").** These rules may be viewed at the USPTO's trademarks page: **http://www.uspto.gov/trademarks/index.jsp**. The Board's main webpage (**http://www.uspto.gov/trademarks/process/appeal/index.jsp**) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).

Plaintiff must notify the Board when service has been ineffective, within 10 days of the date of receipt of a returned service copy or the date on which plaintiff learns that service has been ineffective. Plaintiff has no subsequent duty to investigate the defendant's whereabouts, but if plaintiff by its own voluntary investigation or through any other means discovers a newer correspondence address for the defendant, then such address must be provided to the Board. Likewise, if by voluntary investigation or other means the plaintiff discovers information indicating that a different party may have an interest in defending the case, such information must be provided to the Board. The Board will then effect service, by publication in the Official Gazette if necessary. *See* Trademark Rule 2.118. In circumstances involving ineffective service or return of defendant's copy of the Board's institution order, the Board may issue an order noting the proper defendant and address to be used for serving that party.

Defendant's ANSWER IS DUE FORTY DAYS after the mailing date of this order. (*See* Patent and Trademark Rule 1.7 for expiration of this or any deadline falling on a Saturday, Sunday or federal holiday.) **Other deadlines the parties must docket or calendar are either set forth below (if you are reading a mailed paper copy of this order) or are included in the electronic copy of this institution order viewable in the Board's TTABVUE system at the following web address: http://ttabvue.uspto.gov/ttabvue/.**

Defendant's answer and any other filing made by any party must include proof of service. *See* Trademark Rule 2.119. **If they agree to, the parties may utilize electronic means, e.g., e-mail or fax, during the proceeding for forwarding of service copies.** *See* Trademark Rule 2.119(b)(6).

The parties also are referred in particular to Trademark Rule 2.126, which pertains to the form of submissions. **Paper submissions, including but not limited to exhibits and transcripts of depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.**

Time to Answer	7/31/2011
Deadline for Discovery Conference	8/30/2011
Discovery Opens	8/30/2011
Initial Disclosures Due	9/29/2011
Expert Disclosures Due	1/27/2012
Discovery Closes	2/26/2012
Plaintiff's Pretrial Disclosures	4/11/2012
Plaintiff's 30-day Trial Period Ends	5/26/2012
Defendant's Pretrial Disclosures	6/10/2012
Defendant's 30-day Trial Period Ends	7/25/2012
Plaintiff's Rebuttal Disclosures	8/9/2012
Plaintiff's 15-day Rebuttal Period Ends	9/8/2012

As noted in the schedule of dates for this case, the parties are required to have a conference to discuss: (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case. *See* Trademark Rule 2.120(a)(2). Discussion of the first two of these three subjects should include a discussion of whether the parties wish to seek mediation, arbitration or some other means for resolving their dispute. Discussion of the third subject should include a discussion of whether the Board's Accelerated Case Resolution (ACR) process may be a more efficient and economical means of trying the involved claims and defenses. Information on the ACR process is available at the Board's main webpage. Finally, if the parties choose to proceed with the disclosure, discovery and trial procedures that govern this case and which are set out in the Trademark Rules and Federal Rules of Civil Procedure, then they must discuss whether to alter or amend any such procedures, and whether to alter or amend the Standard Protective Order (further discussed below). Discussion of alterations or amendments of otherwise prescribed procedures can include discussion of limitations on disclosures or discovery, willingness to enter into stipulations of fact, and willingness to enter into stipulations regarding more efficient options for introducing at trial information or material obtained through disclosures or discovery.

The parties are required to conference in person, by telephone, or by any other means on which they may agree. A Board interlocutory attorney or administrative trademark judge will participate in the conference, upon request of any party, provided that such participation is requested no later than ten (10) days prior to the deadline for the conference. *See* Trademark Rule 2.120(a)(2). The request for Board participation must be made through the Electronic System for Trademark Trials and Appeals (ESTTA) or by telephone call to the interlocutory attorney assigned to the case, whose name can be found by referencing the TTABVUE record for this case at **http://ttabvue.uspto.gov/ttabvue/**. The parties should contact the assigned interlocutory attorney or file a request for Board participation through ESTTA only after the parties have agreed on possible dates and times for their conference. Subsequent participation of a Board attorney or judge in the conference will be by telephone and the parties shall place the call at the agreed date and time, in the

absence of other arrangements made with the assigned interlocutory attorney.

The Board's Standard Protective Order is applicable to this case, but the parties may agree to supplement that standard order or substitute a protective agreement of their choosing, subject to approval by the Board. The standard order is available for viewing at: **http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp**. Any party without access to the web may request a hard copy of the standard order from the Board. The standard order does not automatically protect a party's confidential information and its provisions must be utilized as needed by the parties. *See* Trademark Rule 2.116(g).

Information about the discovery phase of the Board proceeding is available in chapter 400 of the TBMP. By virtue of amendments to the Trademark Rules effective November 1, 2007, the initial disclosures and expert disclosures scheduled during the discovery phase are required only in cases commenced on or after that date. The TBMP has not yet been amended to include information on these disclosures and the parties are referred to the August 1, 2007 Notice of Final Rulemaking (72 Fed. Reg. 42242) posted on the Board's webpage. The deadlines for pretrial disclosures included in the trial phase of the schedule for this case also resulted from the referenced amendments to the Trademark Rules, and also are discussed in the Notice of Final Rulemaking.

The parties must note that the Board allows them to utilize telephone conferences to discuss or resolve a wide range of interlocutory matters that may arise during this case. In addition, the assigned interlocutory attorney has discretion to require the parties to participate in a telephone conference to resolve matters of concern to the Board. *See* TBMP § 502.06(a) (2d ed. rev. 2004).

The TBMP includes information on the introduction of evidence during the trial phase of the case, including by notice of reliance and by taking of testimony from witnesses. *See* TBMP §§ 703 and 704. Any notice of reliance must be filed during the filing party's assigned testimony period, with a copy served on all other parties. Any testimony of a witness must be both noticed and taken during the party's testimony period. A party that has taken testimony must serve on any adverse party a copy of the transcript of such testimony, together with copies of any exhibits introduced during the testimony, within thirty (30) days after the completion of the testimony deposition. *See* Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing after briefing is not required but will be scheduled upon request of any party, as provided by Trademark Rule 2.129.

If the parties to this proceeding are (or during the pendency of this proceeding become) parties in another Board proceeding or a civil action involving related marks or other issues of law or fact which overlap with this case, they shall notify the Board immediately, so that the Board can consider whether consolidation or suspension of proceedings is appropriate.

ESTTA NOTE: For faster handling of all papers the parties need to file with the Board, the Board strongly encourages use of electronic filing

through the Electronic System for Trademark Trials and Appeals (ESTTA). Various electronic filing forms, some of which may be used as is, and others which may require attachments, are available at **http://estta.uspto.gov**.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 3712427
Issued on November 17, 2009

PHENIX BRANDS, LLC

Petitioner,

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STILETTO BRANDS, LLC,

Respondent.

Cancellation No. 92054139

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Withdraw as Counsel of Record, thereby permitting them to withdraw as counsel of record for defendant, Stiletto Brands, L.L.C.

Respectfully submitted:

ADAMS AND REESE LLP

Date: 6/1/12

Jason P. Mueller
Haverly MacArthur
Adams and Reese LLP
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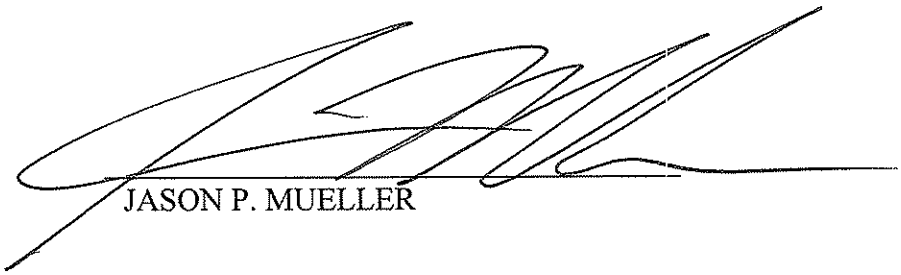
Nashville, Tennessee 37219
(615) 259-1450 (Telephone)
(615) 259-1470 (Facsimile)
haverly.macarthur@arlaw.com
jason.mueller@arlaw.com

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP have complied with paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16; that a copy of the written communication required by paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts is attached to this motion; and that a copy of the Motion to Withdraw as Counsel of Record has been provided to a representative of Stiletto Brands, L.L.C. and to counsel for Phenix Brands, LLC. by United States mail, postage prepaid and properly address, by electronic mail, by facsimile and/or by certified mail, return receipt requested on this 1st day of June, 2012. Address for counsel for Phenix Brands is as follows:

Debra Deardourff Faulk
GrayRobinson, P.A.
201 North Franklin Street, Suite 2200
Tampa, Florida 33601



JASON P. MUELLER

TITLE II

RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS (EXCEPT FOR FAMILY COURTS AND JUVENILE COURTS)

Includes Amendments through November 21, 2011
(Amendments effective January 1, 2012)

Chapter 9 Procedure

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(a) The withdrawing attorney who does not have written consent from the client shall make a good-faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney shall deliver or mail this notice to the client before filing any motion to withdraw.

(b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw shall be submitted to the judge presiding over that section or division.

(c) Any motion to withdraw shall include the following information:

(1) The motion shall state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney shall also furnish this information to the clerk of court.

(2) If a scheduling order is in effect, a copy of it shall be attached to the motion.

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(4) The motion shall include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) shall be attached to the motion.

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(1) The attorney has been terminated by the client; or

(2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or

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(e) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client shall be served with a copy of the motion and rule to show cause why it should not be granted.

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(g) Paragraphs (a) through (f) do not apply to an ex parte motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

(1) The court may grant the motion without a hearing. Movers shall furnish the court with a proposed order.

(2) Substitution of counsel will not, by itself, be good cause to alter or delay any scheduled matters or deadlines.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004; amended November 20, 2009, effective January 1, 2010.

Comment

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

Louisiana Rules of Professional Conduct

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RULE 1.16. DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance

payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

RULE 1.17. [RESERVED]

RULE 1.18. DUTIES TO PROSPECTIVE CLIENT

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.